

PROVIDING FOR CONSIDERATION  
OF H.R. 985, WHISTLEBLOWER  
PROTECTION ENHANCEMENT ACT  
OF 2007

Mr. HASTINGS of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 239 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 239

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 985) to amend title 5, United States Code, to clarify which disclosures of information are protected from prohibited personnel practices; to require a statement in nondisclosure policies, forms, and agreements to the effect that such policies, forms, and agreements are consistent with certain disclosure protections, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour and 20 minutes, with one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Oversight and Government Reform and 20 minutes equally divided and controlled by the chairman and ranking member of the Committee on Homeland Security. After general debate the bill shall be considered for amendment under the five-minute rule. An amendment in the nature of a substitute consisting of the text of the bill, modified by the amendments recommended by the Committee on Oversight and Government Reform now printed in the bill, shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule and shall be considered as read. Notwithstanding clause 11 of rule XVIII, no further amendment to the bill, as amended, shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each further amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such further amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. During consideration in the House of H.R. 985 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

The SPEAKER pro tempore (Mr. PAS-TOR). The gentleman from Florida (Mr. HASTINGS) is recognized for 1 hour.

□ 1245

Mr. HASTINGS of Florida. Mr. Speaker, for purpose of debate only, I yield the customary 30 minutes to my good friend and colleague from Florida, Mr. DIAZ-BALART. All time yielded during consideration of the rule is for debate only.

Mr. Speaker, I yield myself such time as I may consume.

(Mr. HASTINGS of Florida asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Florida. Mr. Speaker, House Resolution 239 provides for consideration of H.R. 985, the Whistleblower Protection Enhancement Act of 2007 under a structured rule. The rule provides 1 hour and 20 minutes of general debate with 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Oversight and Government Reform. The remaining 20 minutes will be equally divided and controlled by the chairman and ranking minority member of the Committee on Homeland Security.

The rule waives all points of order against consideration of the bill except clauses 9 and 10 of rule XXI. The rule provides that the amendment in the nature of a substitute, consisting of the text of the bill, modified by the amendments, recommended by the Committee on Oversight and Government Reform, and printed in the bill, shall be considered as adopted.

The bill, as amended, shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against provisions in the bill, as amended.

Now, the rule makes in order five amendments, three Republican amendments and two Democratic, which are printed in the Rules Committee report accompanying the resolution.

The amendments may be offered only in the order printed in the report, may be offered only by a Member designated in the report and shall be considered as read and shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent.

All points of order against amendments, except for clauses 9 and 10, are waived.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, today is an important day for the more than 2.7 million Federal employees who show us, day in and day out, their commitment to improving our great country. It is an important day because the House, in bipartisan cooperation, is closing the loopholes which permitted retaliation against Federal employees who have reported unlawful fraud, corruption, incompetence and abuse of power.

Today is an important day because the House is saying loud and clear that whistleblower protection is an essential component of government, of gov-

ernment accountability and of government fiscal responsibility.

Throughout our history, whistleblowers have played integral roles in improving our government and holding it accountable for its negligence. From Shawn Carpenter to Joseph Darby to Mark Felt, and everyone in between, whistleblowers have faced harsh penalties from those who would prefer that what they know is never shared with the public. They have, nevertheless, put their careers on the line, and in some instances even their lives, to do what they knew was the right thing to do. Their courage is to be commended and their conviction embraced.

When history judges this current administration, I believe it will look down upon the drastic and despicable actions taken by this administration, which have stifled those seeking to speak truth to power. These actions are, indeed, some of the very reasons why this bill is so desperately needed.

For example, in 2005, the Bush administration officials placed a gag on a senior NOAA official who was scheduled to give an interview arguing that global warming exists and has contributed to greater and stronger hurricane activity. Three weeks later, Hurricane Katrina made landfall, first in my State of Florida, and then in Louisiana and Mississippi and Alabama, killing hundreds and leaving hundreds of thousands homeless, jobless and ill.

How can we forget former CIA operative Valerie Plame? Her life, and the lives of others, were placed in jeopardy after the Vice President's chief of staff revealed her name to a reporter in retaliation for her husband, former Ambassador Joe Wilson, revealing that the administration lied about the existence of weapons of mass destruction in Iraq and where they were trying to retrieve uranium from Africa.

When the Bush administration hasn't been able to directly punish whistleblowers, it has simply tried to unilaterally change the law. Just this past September, after a senior Environmental Protection Agency scientist revealed that the administration had purposefully misled the public regarding the air safety at Ground Zero following the attacks of September 11, the Bush administration issued an executive order declaring that EPA employees are no longer covered by Federal whistleblower protections. That is outrageous.

These three high-profile cases, and there are a great deal more, these three capture only a small snapshot of the problems in the current administration. More importantly, they highlight the need for extended protection across all agency lines to Federal whistleblowers.

Unfortunately, for nearly the last decade, Federal whistleblowers have received nothing more than lip service. Let me make it very clear, I said for the last decade, that includes the previous administration and this one. Even when the House drafted legislation in 2002 establishing the Department of Homeland Security, it failed to

include whistleblower protections for DHS employees.

Now, I am proud that I was the author of the amendment which extended these protections and was the only Democratic amendment adopted by the House during consideration of the legislation. The protection of whistleblowers in recent years has unfortunately garnered only lip service. Today, the House is backing up these words with real action that protects our 2.7 million Federal workforce.

I close by noting that this bill is not perfect. That is why the Rules Committee has made five amendments in order, the majority of which, I might add, are going to be offered by our colleagues, the Republicans, on the other side.

Democrats are proud to continue our efforts to work in a bipartisan manner, and to provide the minority with many opportunities to improve already good legislation.

#### GENERAL LEAVE

Mr. HASTINGS of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks during debate on House Resolution 239.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. I would like to thank my friend from Florida for the time.

Mr. Speaker, I yield myself such time as I may consume.

Congress has the constitutional duty to oversee the executive branch. In order to discharge our constitutional oversight responsibility, Congress depends on information obtained through agency reports and direct communication from Department heads. However, we also depend on information provided directly from employees within the agencies who are witnesses to the misuse of taxpayer dollars and alert Congress of the possible corruption or incompetence in management.

In 1989, Congress passed the Whistleblower Protection Act in an effort to strengthen statutory protections for Federal employees who assist in the elimination of fraud, waste, abuse, illegality or corruption.

H.R. 985 would modernize and expand this protection to Federal employees, with added whistleblower protection.

For example, the bill would extend protection to FBI agents, CIA agents, employees of the Defense Intelligence Agency, the National Geospatial Agency and the National Security Agency.

I think it is important to have whistleblower protection for the intelligence community. I would like to point out, however, that Congress has already passed such legislation. In 1998, Congress passed the Intelligence Community Whistleblower Protection Act

to encourage the reporting to Congress of wrongdoing within the intelligence agencies.

In crafting the 1998 legislation, Congress sought to balance the need for information with national security requirements, giving intelligence community whistleblowers access to Congress but through the intelligence committees.

Yesterday, the Rules Committee denied the ranking member of the Intelligence Committee, Mr. HOEKSTRA, from offering an amendment striking section 10 of the bill. Section 10 conflicts with the provisions of the existing Intelligence Community Whistleblower Protection Act of 1998.

The amendment, I believe, should have been made in order. National security is obviously one of the most important issues that we deal with. Before we make changes to how Congress handles intelligence oversight, we should have a full and complete debate on that particular provision. We could have done that if the majority had made the Hoekstra amendment in order.

Under the bill, defendants in whistleblower cases will now be able to make their cases to any Federal district court if the Merit Systems Protection Board does not take action within 180 days.

Part of this provision will allow claims to be processed on a more timely basis than they are now. However, there are possible problems with the provision.

□ 1300

Yesterday, Oversight and Government Reform Committee Ranking Member DAVIS asked the Rules Committee that his amendment be made in order. His amendment sought to retain uniformity in the consideration of whistleblower cases in the Federal courts by keeping in place the current requirement that all whistleblower appeals go through the United States Court of Appeals for the Federal Circuit, rather than opening up appeals to all circuits.

Without the amendment, Federal employee whistleblowers could end up possessing a different set of rights and protections, depending on where they file their claim. However, unfortunately, the majority decided to close down the debate process on that issue, and refused to allow the House to debate that very important and meaningful amendment.

I believe the majority should have made those amendments, the Hoekstra amendment and the Davis amendment, in order, along with other important amendments brought before the Rules Committee.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time, before yielding to my good friend and colleague on the Rules Committee, only to respond to my friend from Florida

regarding an amendment that was not made in order of the ranking member of the Intelligence Committee.

I serve on that committee, and one amendment that was made in order contemplates everything that the ranking member of the Intelligence Committee might have provided in the amendment that he sought.

Quite frankly, I think Mr. TIERNEY's amendment, which we will have an opportunity to debate here on the floor, will give a full exploration of those matters having to do with whistleblower concerns in the intelligence community. So I commend that to my colleague and all here in this body.

Mr. Speaker, I am very pleased to yield to a new Member, who is not so new now, to the Rules Committee, my good friend, Mr. ARCURI from New York. I yield to him 4 minutes.

Mr. ARCURI. Mr. Speaker, I thank my good friend and colleague from the Rules Committee, the gentleman from Florida, for yielding.

Mr. Speaker, accountability is a word often used but seldom implemented. For the last 12 years it is as if Congress forgot one of its principal responsibilities is to demand accountability from the administration and protect the American people from waste, fraud and abuse.

The Whistleblower Protection Enhancement Act, which this rule provides consideration for, will provide additional transparency and accountability for the way the Federal Government spends tax dollars of the hard-working Americans.

It is no secret that the only way we can truly gather firsthand accounts of instances where waste, fraud and abuse occur is from the people on the inside, the Federal employees. Unfortunately, not all Federal employees are currently protected from being fired if they unmask corruption or other fraudulent activities going on inside the administration.

This legislation goes right to the heart of the issue by extending much needed whistleblower protections to Federal Government employees working on national security, government contractor employees and transportation security employees, including baggage screeners at our airports. It only makes sense that Federal employees, especially those who have undergone extensive background investigations, obtained security clearances and handled classified information on a routine basis, be afforded the same rights and whistleblower protections as all other Federal employees.

In addition, this legislation takes some very important steps. It would abolish the U.S. Circuit Court of Appeals for the Federal Circuit's exclusive jurisdiction for overhearing whistleblower appeals cases, taking away its Supreme Court-like jurisdiction and allowing the appropriate Federal appeals courts in the respective circuit where the incident took place to hear such cases.

For instance, if the instance of whistleblowing were to occur in New York, in my district, that is the Second Circuit. The initial decision rendered by the Second Circuit should be appealed in the Second Circuit. It should not be required to come to the Federal Circuit here.

The current appeals structures for hearing whistleblower cases not only places a hefty financial burden on individuals who would have to travel from across the country to D.C. just to have their appeal heard, it also provides a disservice to our Nation's legal system by overburdening one court.

As a former district attorney, I know from experience that having the ability to draw on decisions from similar cases rendered from different courts around the country would greatly improve our legal system. It would benefit all parties involved, and further enhance our Nation's exceptional legal system. Further, by allowing other Federal circuit appellate courts to hear whistleblower appeal cases increases the opportunity for those cases to be heard by the United States Supreme Court.

Mr. Speaker, it is time to level the playing field for all Federal employees who have the courage to stand up for the American people.

I urge my colleagues on both sides of the aisle to support this rule and the Whistleblower Protection Enhancement Act.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield such time as he may consume to the distinguished ranking member of the Rules Committee, Mr. DREIER.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I rise to begin by thanking my friend from Miami and my friend from Fort Lauderdale. We have got this Sun Belt linkage now here. The only thing in between it was somebody from upstate New York there. And I know he likes that better than Los Angeles, as he told me up in the Rules Committee just before we were going into our last break. But I am proud that there are three of us at least who come from the Sun Belt who are representing this debate on this rule.

Mr. Speaker, I do rise to reluctantly oppose both the rule and the underlying legislation. The bill is very well-intentioned, and it is designed to clarify and expand the laws regarding those who try to expose waste, fraud and mismanagement in the Federal Government.

Whistleblowers, oftentimes, put their jobs at risk to expose wrongdoing in the workplace, and whistleblowers are absolutely crucial to our Nation's security, safety and success as well. I believe very much that their protection is an inherent right for all employees, and it needs to be maintained.

In addition, the whistleblower protections enable Congress to fulfill our constitutional responsibility of over-

seeing the executive branch. It is imperative that we do that. We need to recognize that we are a separate and coequal branch of our Federal Government. We have a right to know the actions of the executive branch and to oversee the implementation of the laws that we create as Members of this body, and whistleblowers are a very crucial part of that.

Now, Mr. Speaker, I do support the idea of expanding and modernizing whistleblower protection laws. But, unfortunately, I believe that this legislation ends up falling short of that very important goal to which I believe we all aspire.

The bill aims to extend whistleblower protections to Federal workers who specialize in national security issues. These workers include employees of the FBI, the CIA, the Defense Intelligence Agency, among others. Unfortunately, the bill raises significant national security concerns that have really led me to conclude that I can't support this bill in its present form.

Within its oversight obligations, Mr. Speaker, Congress is tasked with protecting highly classified intelligence programs. It is absolutely critical for us to ensure that any oversight is conducted by Members and staff with the appropriate experience and expertise.

Now, this bill, in its current form, compromises that duty and outlines new procedures that have the potential to expose highly classified national security programs and information.

Now, during the Rules Committee hearing yesterday, an amendment was offered by the ranking member of the Permanent Select Committee on Intelligence, Mr. HOEKSTRA. And I just heard my friend from Fort Lauderdale, who has served very ably as a member of the Intelligence Committee, as well as on the Rules Committee, say that there is another amendment designed to address this.

But, frankly, I believe very strongly that the amendment that was filed in a timely manner by the gentleman from Michigan (Mr. HOEKSTRA) was one that was not made in order, and I believe really best takes on this issue of dealing with a better way to ensure the security of this important, very important information.

Now, Mr. Speaker, 10 amendments were offered at the Rules Committee, and while I commend the majority for making five of those 10 amendments in order, I do believe that an open rule would have been more appropriate. Give the Members of this body the opportunity to offer amendments to important pieces of legislation like this, not just on noncontroversial bills, which is what we have seen the open rule procedure used for in the past.

At the very least, Mr. Speaker, I think we should have made all 10 of the amendments that were submitted to the Rules Committee in order so that we could have had a free flowing debate on these, and we would have had a chance for people like the ranking

member of the committee of jurisdiction here, the Oversight and Government Reform Committee, Mr. DAVIS, who served very ably as the chairman of that committee before we saw last November's election make this change. This former chairman, the now ranking member, sought to offer an amendment, and he also was denied a chance to offer that amendment.

I do commend my California colleague, Mr. WAXMAN, the distinguished chairman of the committee, as well as Mr. DAVIS, for their hard work and expertise on this very critical issue. Unfortunately, I believe that the bill does, as I say, fall short of that goal. The goal really is an important one, as I said, to ensure that whistleblowers help us meet our constitutional responsibility for oversight of the executive branch.

But the national security concerns that have been raised I think are such that, in its present form, I am not going to be able to support this measure.

So, Mr. Speaker, I do urge my colleagues to vote against this rule. And as I said, I am troubled enough that the bill itself, in its current form, is not legislation that I can support.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 3 minutes to my good friend and classmate, the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. I rise, Mr. Speaker, in strong support of the rule, H. Res. 239, and the underlying bill, H.R. 985, the Whistleblower Protection Enhancement Act.

And I want to commend, not only the Rules Committee for coming forward with a fair rule, but also Chairman WAXMAN and Ranking Member DAVIS for moving this important bill out of the Government Reform and Oversight Committee on which I serve.

The Whistleblower Protection Act has been weakened by court cases in recent years, and even the weak protections offered under the Whistleblower Protection Act do not apply to national security whistleblowers or contractors at those agencies.

The Oversight Committee repeatedly has heard from people who have had their security clearances revoked after blowing the whistle. In some cases they have been fired for pointing out lapses in security, for pointing out waste, fraud and abuse.

We have been told that wrongdoers have been allowed to continue their actions, while the whistleblowers have been the ones that have been made to suffer. This is absolutely wrong.

In the 109th Congress I was joined by my colleague, DIANE WATSON, in offering an amendment during the committee's consideration of the Federal Employee Protection of Disclosures Act, that would have extended whistleblower protections to employees in national security and in the intelligence community.

I would argue, and I believe many of my colleagues would agree, that revealing lapses in the security of our

Nation is a national security priority above all. Whistleblowers in these categories should be protected.

And I am thrilled that, under Democratic leadership, this has been included in the bill, that these protections have been extended to employees of intelligence agencies, and to Federal contractors in intelligence agencies. This is an important step forward for the American public. This is an important step forward, I would argue, for the national security of our country.

Whistleblowers are heroes and heroines. They should not be turned into villains and be harassed out of their jobs, denied their security clearance because they see a breach in security or a breach in accountability in our government.

So I am thrilled with this Democratic bill, and I urge my colleagues to vote for the rule and also for the underlying bill. I urge all of my colleagues to support it. It had bipartisan support coming out of our committee.

□ 1315

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I thank again my distinguished friend from Florida for his courtesy in yielding the time.

Mr. Speaker, we will oppose the previous question. If the previous question is defeated, I will offer an amendment to the rule to make in order the amendment offered yesterday in the Rules Committee by the gentleman from Michigan, the ranking member of the Permanent Select Committee on Intelligence, Mr. HOEKSTRA.

The Hoekstra amendment would safeguard our national intelligence and allow the Intelligence Committee to appropriately address whistleblower concerns through regular order. While the Tierney amendment which was made in order, as was pointed out by my good friend, attempts to address these concerns, it still allows the possible dissemination, we believe, of highly sensitive information to individuals outside of the Intelligence Community and, therefore, may put our security at risk.

Mr. Speaker, I ask unanimous consent to insert the text of the Hoekstra amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. LINCOLN DIAZ-BALART of Florida. At this time, Mr. Speaker, I urge all Members to oppose the previous question, and I yield back the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, the underlying legislation is desperately needed. Federal employees need to know that Congress is on their side. They need to know that their jobs will not be at risk if they choose to reveal fraud, abuse of power, neglect, or corruption in their workplace.

The extension of these whistleblower protections is absolutely critical to our

national security and our government accountability. I am proud to support the underlying legislation and hope that my colleagues will do the same. This is a fair rule for a bill that is supported by Members from both sides of the aisle, including the chairman and ranking Republican of the Government Reform Committee.

I urge a "yes" vote on the previous question and on the rule, Mr. Speaker.

The material previously referred to by Mr. LINCOLN DIAZ-BALART of Florida is as follows:

#### AMENDMENT TO H. RES. 239

OFFERED BY REP. LINCOLN DIAZ-BALART OF FLORIDA

At the end of the resolution, add the following:

SEC. 3. Notwithstanding any other provision of this resolution, the amendment printed in section 4 shall be in order as though printed as the last amendment in the report of the Committee on Rules if offered by Representative Hoekstra of Michigan or a designee. That amendment shall be debatable for 30 minutes equally divided and controlled by the proponent and an opponent.

SEC. 4. The amendment referred to in section 3 is as follows:

Strike section 10 of the bill and conform the table of contents accordingly.

Redesignate sections 11 through 14 as sections 10 through 13, respectively, and conform the table of contents accordingly.

In section 11(a)(2), as redesignated, strike "section 2303a (as inserted by section 10)" and insert "section 2303".

In section 13, as redesignated, strike "section 12(a)(2)" and insert "section 11(a)(2)".

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

#### THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's *Precedents of the House of Representatives*, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate

vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the *Floor Procedures Manual* published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from *Congressional Quarterly's "American Congressional Dictionary"*: "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's *Procedure in the U.S. House of Representatives*, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. HASTINGS of Florida. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adoption of H. Res. 239, if ordered, and approval of the Journal, if ordered.

The vote was taken by electronic device, and there were—yeas 224, nays 197, not voting 12, as follows:

[Roll No. 145]

YEAS—224

Abercrombie	Brady (PA)	Courtney
Ackerman	Braley (IA)	Cramer
Allen	Brown, Corrine	Crowley
Altmire	Butterfield	Cuellar
Andrews	Capps	Cummings
Arcuri	Capuano	Davis (AL)
Baca	Cardoza	Davis (CA)
Baird	Carnahan	Davis (IL)
Baldwin	Carney	Davis, Lincoln
Bean	Carson	DeFazio
Becerra	Castor	DeGette
Berkley	Chandler	Delahunt
Berry	Clarke	DeLauro
Bishop (GA)	Clay	Dicks
Bishop (NY)	Cleaver	Dingell
Blumenauer	Clyburn	Doggett
Boren	Cohen	Donnelly
Boswell	Conyers	Doyle
Boucher	Cooper	Edwards
Boyd (FL)	Costa	Ellison
Boyd (KS)	Costello	Ellsworth

Emanuel	Levin	Roybal-Allard	Mica	Regula	Souder	Israel	Michaud	Scott (VA)
Engel	Lewis (GA)	Rush	Miller (FL)	Rehberg	Stearns	Jackson (IL)	Millender-	Serrano
Eshoo	Lipinski	Ryan (OH)	Miller (MI)	Reichert	Sullivan	Jackson-Lee	McDonald	Sestak
Etheridge	Loeb sack	Salazar	Miller, Gary	Renzi	Tancredo	(TX)	Miller (NC)	Shea-Porter
Farr	Lofgren, Zoe	Sánchez, Linda	Moran (KS)	Terry		Jefferson	Mitchell	Sherman
Fattah	Lowey	T.	Murphy, Tim	Rogers (AL)	Thornberry	Johnson (GA)	Mollohan	Shuler
Filner	Lynch	Sanchez, Loretta	Musgrave	Rogers (KY)	Tiahrt	Johnson, E. B.	Moore (KS)	Sires
Frank (MA)	Mahoney (FL)	Sarbanes	Myrick	Rogers (MI)	Tiberi	Jones (OH)	Moore (WI)	Skelton
Giffords	Maloney (NY)	Schakowsky	Neugebauer	Rohrabacher	Turner	Kagen	Moran (VA)	Slaughter
Gillibrand	Markey	Schiff	Nunes	Ros-Lehtinen	Upton	Kanjorski	Murphy (CT)	Smith (WA)
Gonzalez	Marshall	Schwartz	Paul	Roskam	Walberg	Kaptur	Murphy, Patrick	Snyder
Gordon	Matheson	Scott (GA)	Pearce	Royce	Walden (OR)	Kennedy	Murtha	Solis
Green, Al	Matsui	Scott (VA)	Pence	Ryan (WI)	Walsh (NY)	Kildee	Nadler	Space
Green, Gene	McCarthy (NY)	Serrano	Peterson (PA)	Sali	Wamp	Kilpatrick	Napolitano	Spratt
Grijalva	McCollum (MN)	Sestak	Petri	Schmidt	Weldon (FL)	Kind	Neal (MA)	Stark
Gutierrez	McDermott	Shea-Porter	Pickering	Sensenbrenner	Weller	Klein (FL)	Oberstar	Stupak
Hall (NY)	McGovern	Sherman	Pitts	Sessions	Westmoreland	Kucinich	Obey	Sutton
Hare	McIntyre	Shuler	Platts	Shadegg	Whitfield	Lampson	Oliver	Tanner
Harman	McNerney	Sires	Poe	Shays	Wicker	Langevin	Ortiz	Tauscher
Hastings (FL)	McNulty	Skelton	Porter	Shimkus	Wilson (NM)	Lantos	Pallone	Taylor
Herstatt	Meeks (NY)	Slaughter	Price (GA)	Shuster	Wilson (SC)	Larsen (WA)	Pascarell	Thompson (CA)
Higgins	Melancon	Smith (WA)	Pryce (OH)	Simpson	Wolf	Larson (CT)	Pastor	Thompson (MS)
Hill	Michaud	Snyder	Putnam	Smith (NE)	Young (AK)	Lee	Payne	Tierney
Hinchey	Millender-	Solis	Radanovich	Smith (NJ)	Young (FL)	Levin	Perlmutter	Towns
Hinojosa	McDonald	Space	Ramstad	Smith (TX)		Lewis (GA)	Pomeroy	Udall (CO)
Hirono	Miller (NC)	Spratt				Lipinski	Price (NC)	Udall (NM)
Hodes	Mitchell	Stark				Loeb sack	Rahall	Van Hollen
Holden	Mollohan	Stupak				Lofgren, Zoe	Rangel	Velázquez
Holt	Moore (KS)	Sutton				Lowey	Reyes	Visclosky
Honda	Moore (WI)	Tanner				Lynch	Rodriguez	Walz (MN)
Hooley	Moran (VA)	Tauscher				Mahoney (FL)	Ross	Wasserman
Hoyer	Murphy (CT)	Taylor				Maloney (NY)	Rothman	Schultz
Inslee	Murphy, Patrick	Thompson (CA)				Markey	Roybal-Allard	Waters
Israel	Murtha	Thompson (MS)				Marshall	Ruppersberger	Watson
Jackson (IL)	Nadler	Tierney				Matheson	Rush	Watt
Jackson-Lee	Napolitano	Towns				Matsui	Ryan (OH)	Weiner
(TX)	Neal (MA)	Udall (CO)				McCarthy (NY)	Salazar	Welch (VT)
Jefferson	Oberstar	Udall (NM)				McCollum (MN)	Sánchez, Linda	Wexler
Johnson (GA)	Obey	Van Hollen				McDermott	T.	Wilson (OH)
Johnson, E. B.	Oliver	Velázquez				McGovern	Sanchez, Loretta	Woolsey
Jones (OH)	Ortiz	Visclosky				McIntyre	Sarbanes	Wu
Kagen	Pallone	Walz (MN)				McNerney	Schakowsky	Wynn
Kaptur	Pascarell	Wasserman				Schiff	Schwartz	Yarmuth
Kennedy	Pastor	Schultz				Melancon		
Kildee	Payne	Waters						
Kilpatrick	Perlmutter	Watson						
Kind	Peterson (MN)	Watt						
Klein (FL)	Pomeroy	Waxman						
Kucinich	Price (NC)	Weiner						
Lampson	Rahall	Welch (VT)						
Langevin	Rangel	Wexler						
Lantos	Reyes	Wilson (OH)						
Larsen (WA)	Rodriguez	Woolsey						
Larson (CT)	Ross	Wu						
Lee	Rothman	Yarmuth						

## NOT VOTING—12

□ 1342

Ms. GINNY BROWN-WAITE of Florida, Mr. REYNOLDS, and Mrs. BACHMANN changed their vote from “yea” to “nay.”

Ms. MCCOLLUM of Minnesota and Mr. KUCINICH changed their vote from “nay” to “yea.”

So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered. The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 223, nays 193, not voting 17, as follows:

[Roll No. 146]

## YEAS—223

Aderholt	Culberson	Herger	Abercrombie	Carson	Ellsworth
Akin	Davis (KY)	Hobson	Ackerman	Castor	Emanuel
Alexander	Davis, David	Hoekstra	Allen	Chandler	Engel
Bachmann	Hulshof	Hulshof	Altmiere	Clarke	Etheridge
Bachus	Deal (GA)	Hunter	Andrews	Clay	Fattah
Baker	Dent	Inglis (SC)	Arcuri	Cleaver	Filner
Barrett (SC)	Diaz-Balart, L.	Issa	Baca	Clyburn	Frank (MA)
Barrow	Diaz-Balart, M.	Jindal	Baird	Cohen	Giffords
Bartlett (MD)	Doolittle	Johnson (IL)	Baldwin	Conyers	Gillibrand
Barton (TX)	Drake	Johnson, Sam	Barrow	Cooper	Gonzalez
Biggert	Dreier	Jones (NC)	Bean	Costa	Gordon
Bilbray	Duncan	Jordan	Becerra	Costello	Green, Al
Bilirakis	Ehlers	Keller	Berkley	Courtney	Green, Gene
Bishop (UT)	Emerson	King (IA)	Berman	Cramer	Grijalva
Blackburn	English (PA)	King (NY)	Berry	Crowley	Gutierrez
Blunt	Everett	Kingston	Bishop (GA)	Cuellar	Hall (NY)
Boehner	Fallin	Kirk	Bishop (NY)	Cummings	Hare
Bonner	Feeney	Kline (MN)	Blumenauer	Davis (AL)	Harman
Bono	Ferguson	Knollenberg	Boren	Davis (CA)	Hastings (FL)
Boozman	Flake	Kuhl (NY)	Boswell	Davis (IL)	Herstatt
Boustany	Forbes	Lamborn	Boucher	Davis, Lincoln	Higgins
Brady (TX)	Fortenberry	Latham	Boyd (FL)	DeFazio	Hill
Brown-Waite,	Fossella	LaTourette	Boyd (KS)	DeGette	Hinchey
Ginny	Fox	Lewis (CA)	Brady (PA)	Delahunt	Hinojosa
Buchanan	Franks (AZ)	Lewis (KY)	Braley (IA)	DeLauro	Hirono
Burgess	Frelinghuysen	Linder	Brown, Corrine	Dicks	Hodes
Burton (IN)	Galleghy	LoBiondo	Butterfield	Dingell	Holden
Buyer	Garrett (NJ)	Lucas	Capps	Doggett	Holt
Calvert	Gerlach	Lungren, Daniel	Capuano	Donnelly	Honda
Camp (MI)	Gilchrest	E.	Cardoza	Doyle	Hooley
Campbell (CA)	Gillmor	Mack	Carnahan	Edwards	Hoyer
Cannon	Cantor	Manzullo	Carney	Ellison	Inslee
Cantor	Gohmert	Marchant			
Capito	Goode	McCaul (TX)			
Carter	Goodlatte	McCotter			
Castle	Graves	McCrery			
Chabot	Hall (TX)	McHenry			
Coble	Hastert	McHugh			
Cole (OK)	Hastings (WA)	McKeon			
Conaway	Heller	McMorris			
Crenshaw	Hensarling	Rodgers			
Cubin					

## NAYS—193

Aderholt	Everett	LoBiondo
Akin	Fallin	Lucas
Alexander	Feeney	Lungren, Daniel
Bachmann	Flake	E.
Bachus	Forbes	Mack
Baker	Fortenberry	Manzullo
Barrett (SC)	Fossella	Marchant
Bartlett (MD)	Fox	McCarthy (CA)
Barton (TX)	Franks (AZ)	McCaul (TX)
Biggert	Frelinghuysen	McCotter
Bilbray	Galleghy	McCrery
Bilirakis	Garrett (NJ)	McHenry
Bishop (UT)	Gerlach	McHugh
Blackburn	Gilchrest	McKeon
Blunt	Gillmor	McMorris
Boehner	Gingrey	Rodgers
Bonner	Gohmert	Mica
Bono	Goode	Miller (FL)
Boozman	Goodlatte	Miller (MI)
Boustany	Graves	Miller, Gary
Brady (TX)	Hall (TX)	Moran (KS)
Brown-Waite,	Hastert	Murphy, Tim
Ginny	Hastings (WA)	Musgrave
Buchanan	Hayes	Myrick
Burgess	Heller	Neugebauer
Burton (IN)	Hensarling	Nunes
Buyer	Herger	Paul
Calvert	Hobson	Pearce
Camp (MI)	Hoekstra	Pence
Campbell (CA)	Hulshof	Peterson (PA)
Cannon	Issa	Petri
Cantor	Jindal	Pickering
Capito	Johnson (IL)	Pitts
Carter	Johnson, Sam	Platts
Castle	Jones (NC)	Poe
Chabot	Jordan	Porter
Coble	Keller	Price (GA)
Conaway	King (IA)	Pryce (OH)
Crenshaw	King (NY)	Putnam
Cubin	Kingston	Radanovich
Culberson	Kirk	Ramstad
Davis (KY)	Kline (MN)	Regula
Davis, David	Knollenberg	Rehberg
Davis, Tom	Kuhl (NY)	Reichert
Deal (GA)	LaHood	Renzi
Dent	Lamborn	Reynolds
Diaz-Balart, L.	Latham	Rogers (AL)
Diaz-Balart, M.	LaTourette	Rogers (KY)
	Lewis (CA)	Rogers (MI)
	Lewis (KY)	Rohrabacher
	Linder	Ros-Lehtinen
		Roskam
		Royce

Ryan (WI)	Souder	Wamp
Sali	Stearns	Weldon (FL)
Schmidt	Sullivan	Weller
Sensenbrenner	Tancredo	Westmoreland
Sessions	Terry	Whitfield
Shadegg	Thornberry	Wicker
Shays	Tiahrt	Wilson (NM)
Shimkus	Tiberi	Wilson (SC)
Shuster	Turner	Wolf
Simpson	Upton	Young (AK)
Smith (NE)	Walberg	Young (FL)
Smith (NJ)	Walden (OR)	
Smith (TX)	Walsh (NY)	

## NOT VOTING—17

Brown (SC)	Farr	Miller, George
Buyer	Ferguson	Peterson (MN)
Carter	Granger	Saxton
Cole (OK)	Meehan	Scott (GA)
Davis, Jo Ann	Meek (FL)	Waxman
Eshoo	Meeks (NY)	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1349

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. COLE of Oklahoma. Mr. Speaker, I was unavoidably absent for rollcall vote 146 on H. Res. 239, the rule to provide for consideration of H.R. 985. Had I been present, I would have voted “nay.”

## THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of agreeing to the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 265, nays 157, answered “present” 1, not voting 10, as follows:

[Roll No. 147]

## YEAS—265

Abercrombie	Boyda (KS)	Cooper
Ackerman	Brady (PA)	Costa
Allen	Braley (IA)	Costello
Andrews	Brown, Corrine	Courtney
Arcuri	Butterfield	Cramer
Baca	Cannon	Crenshaw
Baird	Capito	Crowley
Baldwin	Capps	Cuellar
Barrett (SC)	Capuano	Cummings
Bean	Cardoza	Davis (AL)
Becerra	Carnahan	Davis (CA)
Berkley	Carney	Davis (IL)
Berman	Carson	Davis, Lincoln
Berry	Castle	Davis, Tom
Bilirakis	Castor	DeFazio
Bishop (GA)	Chandler	DeGette
Bishop (NY)	Clarke	Delahunt
Blumenauer	Clay	DeLauro
Bono	Cleaver	Dent
Boren	Clyburn	Dicks
Boswell	Coble	Dingell
Boucher	Cohen	Doggett
Boyd (FL)	Conyers	Donnelly

Doyle	Kucinich	Reynolds	Manzullo	Pickering	Shadegg
Edwards	Lampson	Rodriguez	Marchant	Pitts	Shays
Ellison	Langevin	Ross	Matheson	Poe	Shuster
Ellsworth	Lantos	Rothman	McCarthy (CA)	Price (GA)	Smith (NE)
Emanuel	Larson (CT)	Roybal-Allard	McCotter	Pryce (OH)	Stearns
Engel	LaTourette	Ruppersberger	McHenry	Putnam	Stupak
Eshoo	Lee	Rush	McHugh	Radanovich	Sullivan
Etheridge	Levin	Ryan (OH)	McKeon	Ramstad	Terry
Farr	Lewis (GA)	Salazar	Melancon	Regula	Tiahrt
Fattah	Lipinski	Sanchez, Linda	Mica	Rehberg	Tiberi
Finler	Loeb	T.	Miller (FL)	Renzi	Udall (CO)
Forbes	Lofgren, Zoe	Sanchez, Loretta	Miller (MI)	Rogers (AL)	Upton
Fortenberry	Lowey	Sarbanes	Moran (KS)	Rogers (KY)	Walberg
Frank (MA)	Lynch	Schakowsky	Murphy, Tim	Rogers (MI)	Walden (OR)
Gerlach	Mack	Schiff	Musgrave	Rohrabacher	Walsh (NY)
Giffords	Mahoney (FL)	Schwartz	Myrick	Ros-Lehtinen	Wamp
Gillibrand	Maloney (NY)	Scott (GA)	Neugebauer	Ruskam	Weldon (FL)
Gillmor	Markey	Scott (VA)	Nunes	Royce	Weller
Gonzalez	Marshall	Serrano	Olver	Ryan (WI)	Westmoreland
Goodlatte	Matsui	Sestak	Pearce	Sali	Wilson (SC)
Gordon	McCarthy (NY)	Shea-Porter	Pence	Schmidt	Wolf
Green, Al	McCauley (TX)	Sherman	Perlmutter	Sensenbrenner	Young (AK)
Green, Gene	McCollum (MN)	Shimkus	Peterson (MN)	Sessions	Young (FL)
Gutierrez	McCrery	Shuler			
Hall (NY)	McDermott	Simpson			
Hall (TX)	McGovern	Sires			
Hare	McIntyre	Skelton			
Harman	McMorris	Slaughter			
Hastings (FL)	Rodgers	Smith (NJ)			
Hastings (WA)	McNerney	Smith (WA)			
Hayes	McNulty	Snyder			
Herse	Meek (FL)	Solis			
Higgins	Meeks (NY)	Souder			
Hill	Michaud	Space			
Hinche	Millender	Spratt			
Hinojosa	McDonald	Stark			
Hirono	Miller (NC)	Sutton			
Hodes	Miller, Gary	Tanner			
Hoekstra	Mitchell	Tauscher			
Holden	Mollohan	Taylor			
Holt	Moore (KS)	Thompson (CA)			
Honda	Moore (WI)	Thompson (MS)			
Hooley	Moran (VA)	Thornberry			
Hoyer	Murphy (CT)	Tierney			
Inslee	Murphy, Patrick	Towns			
Israel	Murtha	Turner			
Issa	Nadler	Udall (NM)			
Jackson (IL)	Napolitano	Van Hollen			
Jackson-Lee	Neal (MA)	Velázquez			
(TX)	Oberstar	Visclosky			
Jefferson	Obey	Walz (MN)			
Jindal	Ortiz	Wasserman			
Johnson (GA)	Pallone	Schultz			
Johnson (IL)	Pascarella	Waters			
Johnson, E. B.	Pastor	Watt			
Jones (NC)	Paul	Waxman			
Jones (OH)	Payne	Weiner			
Jordan	Peterson (PA)	Welch (VT)			
Kanjorski	Petri	Wexler			
Kaptur	Platts	Whitfield			
Keller	Pomeroy	Wicker			
Kennedy	Porter	Wilson (NM)			
Kildee	Price (NC)	Wilson (OH)			
Kilpatrick	Rahall	Woolsey			
Kind	Rangel	Wu			
Kirk	Reichert	Wynn			
Klein (FL)	Reyes	Yarmuth			

## NAYS—157

Aderholt	Chabot	Gohmert
Akin	Cole (OK)	Goode
Alexander	Conaway	Graves
Altmire	Cubin	Hastert
Bachmann	Culberson	Heller
Bachus	Davis (KY)	Hensarling
Baker	Davis, David	Hergert
Barrow	Deal (GA)	Hobson
Bartlett (MD)	Diaz-Balart, L.	Hulshof
Barton (TX)	Diaz-Balart, M.	Hunter
Biggert	Doolittle	Inglis (SC)
Bilbray	Drake	Johnson, Sam
Bishop (UT)	Dreier	Kagen
Blackburn	Duncan	King (IA)
Blunt	Ehlers	King (NY)
Boehner	Emerson	Kingston
Bonner	English (PA)	Kline (MN)
Boozman	Everett	Knollenberg
Boustany	Fallin	Kuhl (NY)
Brady (TX)	Feeney	LaHood
Brown-Waite,	Ferguson	Lamborn
Ginny	Flake	Larsen (WA)
Buchanan	Fossella	Latham
Burgess	Fox	Lewis (CA)
Burton (IN)	Franks (AZ)	Lewis (KY)
Buyer	Frelinghuysen	Linder
Calvert	Gallegly	LoBiondo
Camp (MI)	Garrett (NJ)	Lucas
Campbell (CA)	Gilchrest	Lungren, Daniel
Cantor	Gingrey	E.

## ANSWERED “PRESENT”—1

Tancredo

## NOT VOTING—10

Brown (SC)	Grijalva	Smith (TX)
Carter	Meehan	Watson
Davis, Jo Ann	Miller, George	
Granger	Saxton	

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE.

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1359

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PARLIAMENTARY INQUIRIES

Mr. WESTMORELAND. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman will state it.

Mr. WESTMORELAND. Mr. Speaker, I am sure you would like to join me in noting that clause 2(a) of rule XX provides that a recorded vote by electronic device shall not be held open for the sole purpose of reversing the outcome of such vote. On the previous question vote, Rollcall Vote No. 145, I would hope that you would agree that at the expiration of time for this vote the noes were prevailing. Is that true?

□ 1400

The SPEAKER pro tempore. The gentleman is correct that that particular clause says that a vote may not be held open for the sole purpose of changing an outcome.

In this case, the vote remained open to allow all Members to vote.

Mr. WESTMORELAND. Further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state his inquiry.

Mr. WESTMORELAND. Could the Speaker tell me when an instance of the vote being held open would reverse the outcome if it is not when the “nays” are prevailing against the “yeas,” or the “yeas” prevailing against the “nays,” and the majority wants the outcome to be the exact opposite?

The SPEAKER pro tempore. The Chair is not going to respond to a hypothetical question.